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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of) MM Docket No. 92-116
UHURU COMMUNICATIONS, INC.) File No. BRED-910230WF
For Renewal of License)
of Station WUCI-FM)
Binghamton, New York)
and)
WSKG PUBLIC) File No. BPED-910501MB
TELECOMMUNICATIONS COUNCIL)
For a Construction Permit)
For a New FM Station)
Binghamton, New York)
ARROWHEAD CHRISTIAN) File No. BPED-910501MC
CENTER)
For a Construction Permit)
For a New FM Station)
Binghamton, New York)

ORIGINAL
FILE

To: Administrative Law Judge
Arthur I. Steinberg

MASS MEDIA BUREAU'S COMMENTS
ON MOTION TO DISMISS

1. On July 27, 1992, Arrowhead Christian Center (Arrowhead) and WSKG Public Telecommunications Council (WSKG) filed a motion to dismiss the application of Uhuru Communications Inc. (Uhuru). On August 4, 1992, Arrowhead and WSKG filed a supplement to their motion. The Mass Media Bureau offers the following comments on the Arrowhead and WSKG motion to dismiss, as supplemented.

2. Movants allege that dismissal of Uhuru's application is warranted because Uhuru failed to file the environmental statement required by the Hearing Designation Order (HDO), 7 FCC

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Rcd 3507 (1992) and because Uhuru failed to attend a meeting of the parties, to discuss discovery, the scope of the issues and settlement, called for by the Presiding Judge's Order Prior to Prehearing Conference, FCC 92M-754, released July 6, 1992. As a consequence of Uhuru's failure to meet with the other parties, agreement on these matters could not be reached. In their supplement, movants note that, since the filing of their Motion to Dismiss, Uhuru failed to file an opposition to a Motion to Enlarge filed against it on July 13, 1992 by WSKG and, despite ample notice, failed to attend a second meeting of the parties on July 31, 1992.¹

3. While it appears from the record to-date that Uhuru has not participated fully in this proceeding, it is not clear that its lack of participation is evidence of an intent not to prosecute its application. In this regard the Bureau notes that, by letter dated August 6, 1992, Uhuru, through Gladys Cordeaux, the Chairperson of its Board of Directors, provided documents to counsel for WSKG apparently in response to what it believed was a document request by WSKG (WSKG had sent Uhuru a draft of a proposed joint document request). Although these documents need not have been produced, the fact of their production indicates that Uhuru is still actively interested in prosecuting its application. Consequently, the Bureau does not believe that


¹ Although not noted by the movants, Uhuru also failed to appear at the prehearing conference held in this proceeding on August 7, 1992.

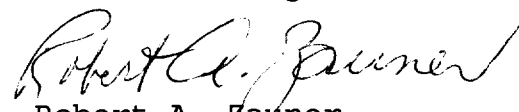
movants have advanced sufficient grounds for the dismissal of the Uhuru application. Moreover, although Uhuru has not obeyed either the HDO's requirement that it file an environmental statement or the Presiding Judge's instruction that the parties meet to discuss various matters, it does not appear that either Arrowhead of WKSG has suffered any significant prejudice as a result of Uhuru's inaction or that these matters could not be rectified.²

² In this regard, compare Uhuru with the applicant in Faith Center, Inc., 92 FCC 2d 1257 (Rev. Bd. 1983), rev. denied, FCC 83-530, released November 18, 1983, whose application was dismissed for its continued refusal to comply with discovery requests. Here, Uhuru has to-date only failed to attend a meeting to discuss discovery.

4. While the Bureau does not support dismissal of the Uhuru application solely on the grounds advance by the movants, in light of Uhuru's history of non-participation in this proceeding to-date, the Bureau would support dismissal of the Uhuru application if Uhuru does not oppose the instant motion to dismiss.

Respectfully submitted,
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August 19, 1992

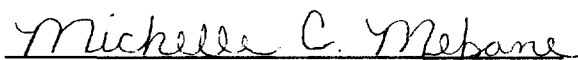
CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 19th day of August 1992, sent by regular United States mail; U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments on Motion to Dismiss"** to:

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